



STATUTORY INSTRUMENTS.

S.I. No. 612 of 2021



EUROPEAN COMMUNITIES (ROAD INFRASTRUCTURE SAFETY
MANAGEMENT) REGULATIONS 2021

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I, EAMON RYAN, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive (EU) 2019/1936 of the European Parliament and of the Council of 23 October 2019 amending Directive 2008/96/EC on road infrastructure safety management¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Road Infrastructure Safety Management) Regulations 2021.

Interpretation

2. (1) In these Regulations—

“Act of 1993” means the Roads Act 1993 (No. 14 of 1993);

“Act of 2007” means the Roads Act 2007 (No. 34 of 2007);

“Authority” means the National Roads Authority established under section 16 of the Act of 1993;

“Directive” means Directive (EU) 2019/1936 of the European Parliament and of the Council of 23 October 2019 amending Directive 2008/96/EC on road infrastructure safety management¹;

“infrastructure project” means a project for the construction of new road infrastructure or a substantial modification to the existing road network which affects the traffic flow;

“Minister” means the Minister for Transport;

“motorway” means a public road or proposed public road specified to be a motorway in a motorway scheme approved by the Minister under Section 49 of the Roads Act 1993 (No. 14 of 1993) or a national road or a proposed road development for the construction of a national road declared to be a motorway under section 8 of the Roads Act 2007 (No. 34 of 2007);

“national framework of qualifications” means the framework established and maintained pursuant to section 7 of the Qualifications (Education and Training) Act 1999 (No. 26 of 1999);

“National Primary Road” means a road which is a major long-distance through route linking principal cities, large towns, ports and airport, which serves major geographical regions and a high percentage of the total population, prescribed

¹ OJ L305, 26.11.2019, p.1

by the Minister in regulations made under section 10(2)(a)(i) of the Act of 1993;

“National Qualifications Authority of Ireland” means the body established under section 5 of the Qualifications (Education and Training) Act 1999 (No.26 of 1999);

“national road” means a public road or a proposed public road which is classified as a national road under section 10 (amended by section 11 of the Act of 2007) of the Act of 1993;

“Network-wide Road Safety Assessment” means the evaluation of accident and impact severity risk, based on an analysis of high accident concentration sections and a visual examination of the in-built safety of the national road network;

“road authority” means a road authority within the meaning of the Act of 1993;

“road safety audit” means an independent detailed systematic and technical safety check relating to the design characteristics of a road infrastructure project and covering all stages from planning to early operation;

“road safety auditor” means a person referred to in Regulation 6;

“Road Safety Authority” means the Road Safety Authority established under section 3 of the Road Safety Authority Act 2006 (No. 14 of 2006);

“road safety impact assessment” means a strategic comparative analysis of the impact of a new road or a substantial modification to the existing road network on the safety performance of the road network;

“safety inspection” means an ordinary periodical verification of the characteristics and defects that require maintenance work for reasons of safety;

“safety rating” means the classification of parts of the existing road network in categories according to their objectively measured in-built safety;

“targeted road safety inspection” means a targeted investigation to identify hazardous conditions, defects and problems that increase the risk of accidents and injuries, based on a site visit of an existing road or section of road;

“trans-European road network (TERN)” means the road network identified in section 2 of Annex 1 to Decision No. 661/2010/EU of the European Parliament and of the Council of 7 July 2010²;

“Vulnerable road user” means –

- (a) non-motorised road users, including, in particular, cyclists and pedestrians,
- (b) wheelchair users (whether motorised or otherwise), or
- (c) users of powered two-wheelers;

(2) A word or expression which is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

² OJ L 204, 5.8.2010, p. 1

Application

3. (1) These Regulations apply to roads in the State which are part of the trans-European road network (TERN), to motorways and to other National Primary Roads, whether they are at the design stage, under construction or in operation.

(2) These Regulations apply to the needs of all road users, including vulnerable road users, when using roads to which these Regulations apply.

(3) These Regulations do not apply to road tunnels covered by Directive 2004/54/EC of the European Parliament and of the Council of 29 April 2004³.

Directions and guidelines

4. (1) The Authority may give a direction in writing to a road authority in relation to any matter arising under these Regulations or the Directive and a road authority issued with such a direction shall comply with same.

(2) Before issuing a direction to a road authority under paragraph (1), the Authority shall consult with such road authority.

(3) A direction under paragraph (1) may specify the time within which such direction is to be complied with and such other matters as the Authority considers necessary.

(4) The Authority may by direction revoke or amend any direction given by it under these Regulations.

(5) The Minister may give a direction in writing to the Authority in relation to any matter arising under these Regulations or the Directive and the Authority shall comply with such direction.

(6) The Minister may by direction revoke or amend any direction given by him under these Regulations.

(7) The Authority may, at any time, issue guidelines in relation to any matter arising under these Regulations or the Directive.

(8) The Authority shall consult with the Minister, road authorities, the Road Safety Authority and An Garda Síochána, as appropriate, prior to the issuing of any guidelines under paragraph (7), or making material amendments to previous guidelines.

(9) The Authority shall publish or cause to be published, in such manner as it considers appropriate, guidelines issued under paragraph (7).

(10) The Authority may revoke or amend guidelines issued under paragraph (7).

(11) Any person carrying out activities to which these Regulations or the Directive apply shall ensure that those activities are carried out in accordance with guidelines issued by the Authority under paragraph (7).

³ OJ L 167, 30.4.2004, p. 39.

(12) Any direction issued by the Minister and any directions or guidelines issued by the Authority relating to matters arising under these Regulations or the Directive, which were issued by the Minister or the Authority prior to the commencement of these Regulations and remained in force immediately before such commencement, shall be deemed to be directions or guidelines under these Regulations.

Road safety impact assessments

5. (1) Any person undertaking a substantial modification to a road to which these Regulations apply shall ensure that a road safety impact assessment is carried out for that project, in accordance with guidelines issued by the Authority.

(2) The road safety impact assessment shall be carried out at the initial planning stage of the infrastructure project, before—

- (a) in the case of an infrastructure project coming within Part IV of the Act of 1993, submitting a scheme to An Bord Pleanála, pursuant to sections 47 and 49 of the Act of 1993, or,
- (b) in any other case, submitting an application for consent for the infrastructure project under the Planning and Development Act 2000 (No.30 of 2000) and Regulations made under Part XI of that Act.

(3) Any road safety impact assessment being carried out shall—

- (a) indicate the road safety considerations which contribute to the choice of the proposed solution, and
- (b) provide all relevant information necessary for a cost-benefit analysis of the different options assessed.

(4) In issuing guidelines referred to in paragraph (1), the Authority shall endeavour to meet the criteria set out in Annex 1 to the Directive.

Road safety audits

6. (1) Any person undertaking an infrastructure project shall ensure that—

- (a) a road safety audit is carried out for that project, in accordance with guidelines issued by the Authority;
- (b) a road safety audit forms an integral part of the design process of the infrastructure project at the stages of –
 - (i) draft design,
 - (ii) detailed design,
 - (iii) pre- opening, and
 - (iv) early operation, and
- (c) an audit report is produced setting out—

- (i) safety critical design elements for each stage of the infrastructure project, and
- (ii) relevant recommendations from a safety point of view.

(2) Where unsafe features are identified in the course of a road safety audit and the design has not been rectified before the end of the appropriate stage, the competent person, assigned by the Authority, shall state the reasons for this in an annex to the audit report being carried out in accordance with paragraph (1).

(3) Road safety audits shall be carried out by road safety auditors or by a team at least one member of which is a road safety auditor.

(4) A road safety auditor appointed to carry out a road safety audit shall not, at the time of the audit, be involved in the conception or operation of the infrastructure project being audited.

(5) Teams carrying out road safety audits shall comply with guidelines or directions issued by the Authority in respect of composition, membership and experience.

(6) In issuing guidelines referred to in paragraph (1), the Authority shall endeavour to meet the criteria set out in Annex II to the Directive.

Road safety auditors

7. A road safety auditor shall—

- (a) have relevant experience or training in road design, road safety engineering and accident analysis,
- (b) from 19 December 2013, be in possession of one of the following valid certificates of competence, —
 - (i) a professional certificate (Special Purpose Award) equivalent to level 8 on the national framework of qualifications;
 - (ii) an equivalent award validated by another member state of the European Union; or
- (c) take part in periodic further training courses in accordance with guidelines issued by the Authority.

Network-wide road safety assessment

8. (1) The Authority shall undertake a network-wide road safety assessment, based on reviews of the road network, at least once in every 5 year period, starting in 2024.

(2) The Authority shall in such an assessment—

- (a) identify, analyse and classify parts of the existing road network according to occurrence of serious accidents in proportion to the traffic flow, and

(b) undertake a visual examination of the in-built safety of the network

(3) In carrying out the network wide road safety assessments referred to in paragraph (1), the Authority shall endeavour to meet the criteria set out in Annex III to the Directive.

(4) In respect of road sections showing the lowest safety levels according to the results of assessments carried out pursuant to paragraph (1), the Authority shall—

- (a) appoint expert teams, comprising at least one member with relevant experience or training in road design, road safety engineering and accident analysis, to evaluate the said sections by means of a targeted road safety inspection guided by the elements referred to in Annex IIa to the Directive, and
- (b) target remedial treatment at the said sections,
- (c) prepare and update at least every three years a risk-based prioritised action plan to track the implementation of identified remedial action.

(5) The Authority shall classify all sections of the network of roads to which these Regulations apply in no fewer than 3 categories according to their level of safety and shall prepare a safety rating report to be provided to the Commission every five years from the 31st October 2025.

Safety inspections

9. (1) The Authority shall ensure that safety inspections in respect of roads in operation are undertaken in accordance with guidelines issued by the Authority for that purpose.

(2) Safety inspections carried out under paragraph (1) shall—

- (a) comprise periodic inspections of the road network, and
- (b) be sufficiently frequent to safeguard adequate safety levels for the road infrastructure in question.

(3) The Authority shall ensure that joint safety inspections involving the competent entities involved in the implementation of this Directive and Directive 2004/54/EC are undertaken on sections of the road network adjoining road tunnels.

Repairs and roadworks

10. (1) Any person undertaking roadworks shall ensure that any temporary safety measures applying to the roadworks are in accordance with guidelines issued by the Authority under Regulation 3.

(2) Appropriate signs, warning road users of roads undergoing repairs, shall be put in place by those carrying out the repairs concerned, in accordance with directions given by the Minister under section 95(16) of the Road Traffic Act 1961 (No. 24 of 1961).

(3) The Authority shall prepare and publish, in a manner it considers appropriate, an appropriate inspection scheme on the implementation of guidelines issued under paragraph (1).

(4) Where designated by the Authority under an inspection scheme referred to in paragraph (3), the person designated shall carry out inspections of road works in accordance with the scheme and any relevant guidelines issued under paragraph (1).

(5) The Authority shall consult with the Minister, road authorities, the Road Safety Authority or An Garda Síochána, as appropriate –

- (a) prior to the publication of an inspection scheme under paragraph (4), and
- (b) where there are material amendments to previous inspection schemes.

(6) The Authority may revoke or amend an inspection scheme published under paragraph (3).

Data management

11. (1) In respect of each fatal accident occurring on a road to which these Regulations apply, a member of An Garda Síochána shall complete an accident report form, which shall, where possible, include each of the elements listed in Annex IV to the Directive.

(2) The Road Safety Authority shall, at least every five years, calculate the average social cost of a fatal accident and the average social cost of a severe accident occurring in the State.

Revocation of the European Communities (Road Infrastructure Safety Management) Regulations 2011

12. The European Communities (Road Infrastructure Safety Management) Regulations 2011 (S.I. No.472 of 2011) are revoked.



GIVEN under my Official Seal,
19 November, 2021.

EAMON RYAN,
Minister for Transport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations give effect to Directive (EU) 2019/1036 of the European Parliament and of the Council of 23 October 2019 amending Directive 2008/96/EC on road infrastructure safety management.

These Regulations may be cited as European Communities (Road Infrastructure Safety Management) Regulations 2021.

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